

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

ESSEX, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. ESCV2004-01855

GMAC MORTGAGE CORPORATION,  
Plaintiff,

vs.

JEFFREY L. BAYKO, SR., LISA J.  
BAYKO, HELEN E. BAYKO,  
MICHAEL J. BAYKO, BANKNORTH  
GROUP, HANS R. HAILEY, CHARLES  
D. ROTONDI, COMMONWEALTH OF  
MASSACHUSETTS DEPARTMENT  
OF REVENUE, THE UNITED STATES  
OF AMERICA, GARY EVANS,  
CHRISTINE ANN FARO, AND JOHN  
AQUINO,  
Defendants.

**BANKNORTH, N.A.'S AFFIDAVIT IN  
SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT**

I, Heather McCubrey, being duly sworn, hereby depose and say:

1. I am a Bank Officer for the Defendant, Banknorth, N.A., and I am familiar with the facts of this matter.
2. On or about April 18, 1997, Jeffrey L. Bayko, Sr. and Lisa J. Bayko, entered into a Mortgage Agreement with Family Savings Bank. This Mortgage was secured by property located at 7A Graham Avenue, Newbury, Massachusetts.
3. On April 24, 1997, Family Savings Bank recorded said Mortgage in the Essex County Registry of Deeds in Book 14068, Page 475.
4. Banknorth, N.A. is successor in interest to Family Savings Bank.
5. Upon information and belief, on or about March 12, 2004, the property was foreclosed upon and sold by public auction by GMAC.

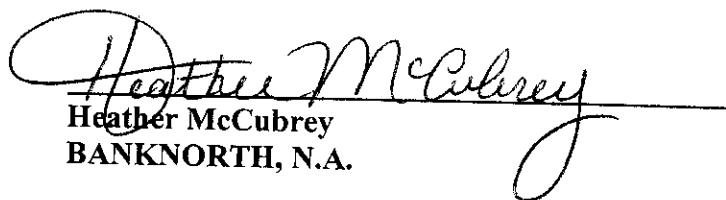
6. Upon information and belief, after satisfaction of all debt owed to GMAC, there is a surplus of \$186,742.59 from the proceeds of that foreclosure sale.

7. Banknorth, N.A. is the holder of the senior mortgage on the subject property.

8. Banknorth, N.A. has priority over any remaining lien holders on the Property, by virtue of being in senior position at the registry.

9. Banknorth, N.A.'s claim is in the present amount of \$16,156.25 plus attorneys fees and costs anticipated to be approximately \$3,500.00.

*Signed under the pains and penalties of perjury this 19<sup>th</sup> day of November 2004.*

  
Heather McCubrey  
BANKNORTH, N.A.

  
11-19-04  
SARAH SMITH  
Notary Public, Maine  
My Commission Expires July 14, 2011

### CERTIFICATE OF SERVICE

I, Michele A. Rooke, hereby certify that I served a copy of the foregoing document on the parties to the case by mailing a copy of the same postage prepaid to:

David M. Rosen, Esquire  
Harmon Law Offices, P.C.  
P.O. Box 610389  
Newton Highlands, MA 02461-0389

Commonwealth of Massachusetts  
Department of Revenue  
Collections Bureau  
P.O. Box 7021  
Boston, MA 02204

Jeffrey L. Bayko, Sr.  
c/o Attorney Gary Evans  
58 Main Street  
Topsfield, MA 01983

The United States of America  
Internal Revenue Services  
P.O. Box 9112  
Stop 20800  
Boston, MA 02203

Lisa J. Bayko  
c/o Attorney Charles D. Rotondi  
79 State Street  
Newburyport, MA 01950

Gary Evans  
58 Main Street  
Topsfield, MA 01983

Helen E. Bayko  
c/o Attorney Timothy Sullivan  
451 Andover Street, Suite 185  
North Andover, MA 01845

Christine Ann Faro  
79 State Street  
Newburyport, MA 01950

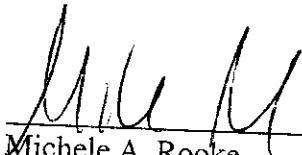
Michael J. Bayko  
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225 Friend Street  
Boston, MA 02114

Attorney Charles D. Rotondi  
79 State Street  
Newburyport, MA 01950

Dated: November 22, 2004

  
Michele A. Rooke